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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. [redacted] 160

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
an unincorporated association,
Petitioner,

vs.

CENTRAL OF GEORGIA RAILWAY COMPANY,
a corporation,
Respondent.

PETITION FOR A WRIT OF CERTIORARI
To the United States Court of Appeals for the Fifth Circuit.

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Petitioner, Brotherhood of Locomotive Firemen and Enginemen, prays that a writ of certiorari issue to review the judgment entered in this cause by the United States Court of Appeals for the Fifth Circuit which affirmed the judgment of the District Court of the United States for the Northern District of Georgia, Atlanta Division.*

* The Court of Appeals noted in the first paragraph of its opinion that three cases were consolidated by the district court and that the appeal consisted of three separate law suits "two of which, BLE and BLF&E v. Central of Georgia Railway Company, differ so materially from the third, Switchmen's Union v. Central of Georgia and Southern Railway Company, that the cases must be considered separately." This petition for a writ of certiorari seeks review of the decision of the Court of Appeals as it relates to the separate cause of action asserted by Brotherhood of Locomotive Firemen and Enginemen (BLF&E) against Central of Georgia Railway. The record filed herewith is that made in the consolidated cases.

OPINIONS BELOW.

The opinion of the District Court is not officially reported; it and the order of dismissal are reproduced at pages 401-409, 418 of the Record. The opinion of the United States Court of Appeals for the Fifth Circuit is reported in 341 F. 2d 214, and is reproduced at pages 20-27 of the Appendix to this petition.

GROUNDS ON WHICH JURISDICTION OF THIS COURT IS INVOKED.

The judgment of the Court of Appeals sought to be reviewed was dated and entered February 2, 1965 (Appendix, p. 27). A timely Petition for Rehearing was denied by order entered and dated March 5, 1965 (Appendix, p. 28). The statutory provision believed to confer jurisdiction on this Court is 28 U. S. C., Section 1254.

QUESTIONS PRESENTED FOR REVIEW.

1. Under circumstances where a carrier by railroad has sought and received approval and authorization from the Interstate Commerce Commission to only acquire control of another carrier by railroad through ownership of its stock, pursuant to an application filed under the Interstate Commerce Act (49 U. S. C., Section 5(2)(a)), may the railroad of which control has been acquired abandon all or a portion of its yard switching facilities, cease operation thereof, and permit their operation and control by the acquiring railroad without first obtaining authority for such actions pursuant to an application made under Section 1, paragraph 18 (49 U. S. C., Section 1 (18)) of the Interstate Commerce Act?

2. Does the acquisition of stock control of one carrier by railroad of another carrier by railroad, pursuant to approval of the Interstate Commerce Commission, authorize the acquired carrier to cease performing the yard switching functions which it customarily performed at its major terminals, by transferring its yard switching facilities to the parent carrier and then terminating *en masse* the employment of its yard switching crews who worked under collective agreements which contained rules that assured employees the right to select and hold jobs on the basis of seniority and other employment rules such as are customarily contained in collective agreements governing rates of pay, rules, and working conditions applicable to the operating crafts?